

Message Text

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ACTION EUR-25

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CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10

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FM AMEMBASSY BONN

TO SECSTATE WASHDC IMMEDIATE 6860

INFO AMEMBASSY MOSCOW

AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY BUCHAREST

AMEMBASSY BELGRADE

AMEMBASSY PRAGUE

AMEMBASSY SOFIA

AMEMBASSY BUDAPEST

AMEMBASSY WARSAW

USMISSION BERLIN

USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 11667

E.O. 11652: GDS

TAGS: PGOV, PFOR, GW, BU, CZ, HU

SUBJECT: FRG NEGOTIATIONS WITH CZECHS, HUNGARIANS AND
BULGARS AT IMPASSE

REF: BONN 1549, PRAGUE 1920 (NOTAL)

SUMMARY: AT AUGUST 14 BONN GROUP MEETING, FRG REP (BLECH)
BRIEFED ALLIES ON PRESENT IMPASSE IN FRG NEGOTIATIONS
WITH CZECHS, BULGARIANS AND HUNGARIANS CAUSED BY LEGAL
ASSISTANCE QUESTION. BLECH SAID THAT FRG HAD TRIED
EXPLICITLY IN NEGOTIATIONS WITH THESE EE STATES TO
INCLUDE PROCESSING OF LETTERS ROGATORY FOR WSB UNDER
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CONSULAR SERVICES PROVISION BUT HAD MET WITH UNYIELDING

REJECTIONS. SUCH INCLUSION, HE SAID, WAS IMPORTANT TO FRG AS PRACTICAL MATTER, AND INTERNATIONAL USAGE AS STATED IN VIENNA CONVENTION OF 1963 AND HAGUE CONVENTION OF 1954 INCLUDES SUCH PROCESSING UNDER HEADING OF CONSULAR SERVICES. BLECH SAID FRG WOULD APPRECIATE STATEMENT FROM ALLIES FOR USE IN NEGOTIATIONS WITH THE THREE EE COUNTRIES THAT, IN ACCORDANCE WITH INTERNATIONAL LAW AS INCLUDED IN TWO CONVENTIONS NOTED ABOVE, ALLIES INTERPRET CONSULAR SERVICES PROVISION (ANNEX IV A.2.(A)) OF QA TO INCLUDE PROCESSING OF LETTERS ROGATORY. ACTION REQUESTED: DEPARTMENT'S VIEWS ON FRG REQUEST AND COMMENTS ON EMBASSY'S DRAFT STATEMENT. END SUMMARY.

1. FRG REP (BLECH) GAVE ALLIES DETAILED BRIEFING AT AUGUST 14 BONN GROUP MEETING ON CURRENT IMPASSE IN BILATERAL NEGOTIATIONS ON ESTABLISHMENT OF DIPLOMATIC RELATIONS WITH CZECHOSLOVAKIA, HUNGARY, AND BULGARIA. IMPASSE OCCURRED WHEN FRG ATTEMPTED TO RECEIVE EXPLICIT AGREEMENT FROM ALL THREE THAT CONSULAR SERVICES FOR WSB BY FRG, AS PERMITTED BY ANNEX IV A.2.(A) OF QA WOULD INCLUDE PROCESSING OF LETTERS ROGATORY. REACTION OF ALL THREE EE STATES WAS COMPLETELY NEGATIVE AND, ACCORDING TO BLECH, FRG HAS NO DOUBTS BUT THAT THE THREE ARE ACTING IN ACCORDANCE WITH SPECIFIC SOVIET INSTRUCTIONS. HE NOTED THAT THE HUNGARIANS HAD TOLD FRG NEGOTIATORS THAT THE USSR HAD INSTRUCTED BUDAPEST TO FOLLOW THE MOST RESTRICTIVE INTERPRETATION POSSIBLE OF THE QA IN THIS MATTER.

2. FRG CONSEQUENTLY BELIEVES, SAID BLECH, THAT CZECH, HUNGARIAN, AND BULGARIAN ARGUMENTATION AGAINST INCLUSION IS ONLY PRETEXT SINCE THEIR NEGOTIATORS HAD TO MAKE SOME REPLY TO FRG POSITION AND STATEMENTS. THE CZECHS HAVE TOLD THE GERMANS THAT A SEPARATE PRAGUE-WEST BERLIN AGREEMENT MIGHT BE THE SOLUTION AND, TAKING THE LINE USED BY THE POLES IN WARSAW'S REFUSAL TO ACCEPT LETTERS ROGATORY ISSUED BY BERLIN COURTS (BONN 11125) HAVE DRAWN A DISTINCTION BETWEEN CONSULAR SERVICES FOR PERSONS AND FOR INSTITUTIONS, SAYING

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THE LATTER ARE NOT INCLUDED UNDER THE QA (SEE RFTL B).

3. BLECH SAID THAT BONN'S POSITION IS BASED ON INTERNATIONAL LAW AND USAGE SINCE BOTH THE VIENNA CONVENTION OF 1963 AND THE HAGUE CONVENTION OF MARCH 1954 EXPLICITLY INCLUDE PROCESSING OF LETTERS ROGATORY UNDER CONSULAR SERVICES. BLECH CONTINUED THAT, SINCE THE FRG, CZECHOSLOVAKIA, AND HUNGARY WERE ALL SIGNATORIES OF THE

HAGUE CONVENTION, IT WOULD APPEAR THAT ANNEX IV A.2.(B)
(REGARDING EXTENSION OF INTERNATIONAL AGREE TO WSB)
IS APPLICABLE SINCE THE FRG AT TIME OF ACCESSION MADE
CUSTOMARY STATEMENT REGARDING SUCH EXTENSION. HOWEVER,
SAID BLECH, THIS ARGUMENT HAS NOT BEEN EFFECTIVE SINCE
PRAGUE AND BUDAPEST HAVE ASSERTED THAT THEIR RESERVATION
AGAINST EXTENSION BY FRG TO WSB IS, IN SPITE OF QA,
STILL VALID.

(COMMENT: VIENNA CONVENTION DOES NOT USE PHRASE CONSULAR
SERVICES BUT INSTEAD "CONSULAR FUNCTIONS", WHICH AS
DEPT. KNOWS WAS PHRASE ADVANCED BY US BUT REJECTED BY

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USSR DURING QA NEGOTIATIONS.)

4. FRG, SAID BLECH, NEEDS ALLIED "CLARIFICATION" OF QA FOR TWO REASONS. FIRST, FRG HAS PRACTICAL REQUIREMENT FOR INCLUSION OF LETTERS ROGATORY IN EE AGREEMENTS (FRG FAILURE TO OBTAIN SPECIFIC INCLUSION IN AGREEMENT WITH POLAND HAS CAUSED BONN SOME DIFFICULTY) THE SECOND REASON THE FRG IS SEEKING CLARIFICATION, SAID BLECH, IS THAT THE ENTIRE CONCEPT OF CONSULAR SERVICES UNDER QA WOULD BE PUT INTO DOUBT IF FRG AND ALLIES WERE TO ACCEPT EASTERN POSITION THAT CONSULAR CONFIDENTIAL

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SERVICES IN QA ARE NOT EXACTLY THE SAME AS NOTED IN VIENNA AND HAGUE CONVENTIONS. CONSEQUENTLY, BLECH SAID, FRG DESIRES STATEMENT FROM ALLIES, WHICH WOULD BE USED WITH EE NEGOTIATORS, THAT CONSULAR SERVICES UNDER QA ARE SAME AS IN GENERAL INTERNATIONAL LAW AS CONTAINED IN TWO CONVENTIONS CITED ABOVE.

BLECH ALLUDED TO POSSIBILITY THAT FRG, IF USE OF AN ALLIED CLARIFICATION WITH THE THREE EE STATES WAS NOT SUCCESSFUL IN REMOVING IMPASSE, MIGHT ASK THREE ALLIES -R

TO CLARIFY THE PROBLEM OF INTERPRETATION WITH THE SOVIETS. ALL ALLIED REPS TOOK POSITION THAT IT WAS FAR TOO EARLY TO CONSIDER THAT POSSIBILITY AT THIS JUNCTURE. BLECH AGREED. (COMMENT: GERMAN PRESS ON AUGUST 15 CARRIES HEAVY NEWS COVERAGE AND EDITORIAL COMMENT ON STALLED NEGOTIATIONS, WITH MAJOR EMPHASIS BEING PLACED ON LIKELY NEED FOR EVENTUAL FOUR POWER INTERPRETATION OF RELEVANT PORTIONS QA.)

5. UK REP (CROMARTIE) SAID THAT, IN EVENT CAPITALS AGREED TO PROVIDE SUCH AN OPINION, QUESTIONS WOULD EXIST AS TO EXTENT OF USE BY FRG AND AT WHAT STEP IN NEGOTIATIONS ALLIED INTERPRETATION WOULD BE BROUGHT INTO PLAY. BLECH REPLIED THAT CZECH DEPFONMIN GOETZ WOULD RETURN TO BONN ON MONDAY, AUGUST 20 AND FRG THEREFORE HOPED FOR ALLIED STATEMENT BY FRIDAY, AUGUST 17, IF AT ALL POSSIBLE.

6. EMBASSY HAS PREPARED SOME DRAFT LANGUAGE WHICH ALLIES MIGHT PROVIDE TO FRG AS CLARIFICATION OF TRIPARTITE POSITION ON MEANING OF QA'S REFERENCE TO CONSULAR SERVICES. FOLLOWING IS PROPOSED TEXT, ON WHICH WE HAVE NOT BEEN ABLE TO CONSULT HERE WITH UK OR FRENCH, WHICH WE WOULD ENVISAGE ALLOWING FRG TO USE ORALLY IN

TALKS WITH THREE EE STATES. FYI: UK AND FRENCH SEEM
GENERALLY AGREEABLE TO PROVIDING SOME FORM OF CLARI-
FICATION FOR FRG'S USE. END FYI.

7. BEGIN TEXT: THE GOVERNMENTS OF THE FRENCH REPUBLIC,
THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA HAVE
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REVIEWED THE LANGUAGE AND NEGOTIATING HISTORY OF THE
QUADRIpartite AGREEMENTS OF SEPTEMBER 3, 1971, AND THE
ACCOMPANYING DOCUMENTS. THEY SHARE THE VIEW THAT THE
TERM "CONSULAR SERVICES" IN ANNEX IV (A) (2) TO THE QA
ENCOMPASSES SERVICES EXERCISED BY CONSULS IN HOST STATES
THROUGHOUT THE WORLD, INCLUDING THE PROCESSING OF
LETTERS ROGATORY. IN THE CONTEXT OF ANNEX IV A.2.(A),
THEY CONSIDER THAT THE TERM "CONSULAR SERVICES" INCLUDES
THE PROCESSING BY THE CONSULATES OF THE FRG OF LETTERS
ROGATORY ISSUED BY COURTS IN THE WESTERN SECTORS OF
BERLIN IN CONNECTION WITH PROCEEDINGS INVOLVING PERMA-
NENT RESIDENTS OF THE WESTERN SECTORS OF BERLIN. END
TEXT.
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